

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

26402

FILE: B-210697**DATE:** September 29, 1983

MATTER OF: Local 3369, American Federation of
Government Employees, AFL-CIO - Claim for
Overtime Compensation - Traveltime

DIGEST:

1. Employees of Social Security Administration are not entitled to overtime compensation under 5 U.S.C. § 5542(b)(2), for time spent traveling in agency-hired buses from one district office to another during the New York City transit strike of April 1980 because all of the offices involved were within the employees' official duty station. Moreover, none of the conditions specified in 5 U.S.C. § 5542(b)(2)(B) were satisfied.
2. Employees of Social Security Administration are not entitled to overtime compensation under the FLSA for time spent traveling in agency-hired buses from one district office to another during the New York City transit strike of April 1980 because such travel was home to work travel. The day's work ended before the buses were boarded and it is undisputed that no work and no preliminary or postliminary activities were performed while traveling or upon debarkation from the buses. See cases cited.

Local 3369, American Federation of Government Employees, AFL-CIO (AFGE), has requested a decision pursuant to 4 C.F.R. Part 22 (1983), concerning the claims for overtime compensation for time spent by employees of the Social Security Administration traveling from home to their worksites during the New York City transit strike of April 1980. The activity was served with a copy of the union's submission and filed no response or comment. We hold that the traveltime involved is not compensable overtime under 5 U.S.C. § 5542(b)(2) or under the Fair Labor Standards Act.

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FACTS

The facts as stated by the union are as follows. On April 1, 1980, there was a transit strike in New York City. The agency hired buses to transport employees to their worksites. Employees were instructed to report to the Jackson Heights Social Security District Office in Queens at 8:30 a.m., their normal starting time. (Employees supplied their own transportation to the Jackson Heights office.) They were picked up there by one of the buses hired by the agency and transported either to the Midtown Social Security Office at 1515 Broadway, or the Downtown Social Security Office at 2 World Trade Center. According to the union, for some employees these offices were their normal duty locations but for others they were not their normal duty locations. The union states that some employees were required to work at the preselected sites so that those sites could be adequately staffed during the transportation strike.

At about 4 p.m., 1 hour before normal quitting time, employees were picked up from the Midtown and Downtown offices and transported back to the Jackson Heights office. On April 2, employees at the Midtown office did not arrive at the Jackson Heights office until 6 p.m.; and on April 3, they did not arrive until 6:15 p.m.

The union claims 1 hour of overtime compensation for employees on April 2, and 1-1/4 hours of overtime compensation for employees on April 3, 1980. It argues that the extra traveltime needed to arrive at the Jackson Heights office extended the employees' regular tour of duty and, therefore, the employees should receive overtime compensation.

ANALYSIS

It is clear from the record in this case that the traveltime at issue is not compensable as overtime under Title 5 of the United States Code. Under 5 U.S.C. § 5542(b)(2)(B), traveltime outside of the regularly scheduled administrative workweek is compensable only if it involves travel away from the official duty station of employees. The travel involved in this case was not travel away from the official duty station. Although some

employees were apparently assigned to different worksites because of the transit strike, all of the worksites involved were within the corporate limits of New York City and, therefore, were within the employees' official duty station. Davis and Sherlock, B-198428, August 7, 1980; Federal Travel Regulations, FPMR 101-7 (May 1973), para. 1-1.3c(1).

Moreover, even if the travel had been away from the official duty station, there would be no entitlement to overtime under Title 5. Travel outside of regular duty hours which has no purpose other than to transport employees to and from the place where they are to perform actual work is not compensable unless the travel-time meets one of the conditions set forth in 5 U.S.C. § 5542(b)(2)(B). That is, it: "(i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively."

The traveltime at issue in this case does not meet any of those standards. Although the transit strike was not subject to administrative control, scheduling the return travel of the buses was subject to administrative control. 52 Comp. Gen. 446, 449 (1973); Durwood H. Nolin, B-202049, August 5, 1981.

Similarly, the traveltime claimed is not compensable as overtime under the Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201-219 (1976). It is undisputed that the day's work ended at the Midtown office. Accordingly, the time outside of the regular workweek spent traveling back to the Jackson Heights office is not compensable as overtime. Walling v. Mid-Continent Pipe Line Co., 143 F.2d 308, 311 (10th Cir. 1944).

Time spent walking, riding, or traveling to or from the actual place of performance of the principal activity or activities which employees are employed to perform does not give rise to an entitlement to overtime under the FLSA. 29 U.S.C. § 254(a)(1). Such travel is considered normal home to work travel. Federal Personnel Manual letter 55-10, April 30, 1976, page 2 of attachment. We

also note that there is nothing in the record to suggest that employees performed any work or any preliminary or postliminary activities while traveling on the buses or upon their arrival at the Jackson Heights office. See 29 U.S.C. § 254(a)(2); Porter C. Murphy, 55 Comp. Gen. 1009 (1976); D.A. & S. Oil Well Servicing, Inc. v. Mitchell, 262 F.2d 552, (10th Cir. 1958); Tanaka v. Richard K.W. Tom, Inc., 299 F. Supp. 732 (D. Hawaii, 1969).

In view of the above, the union's claim for overtime compensation is denied.

for *Milton J. Fowler*
Comptroller General
of the United States